



Office of Performance Evaluations Idaho Legislature

Report 06-03F

August 2006

Timeliness and Funding of Air Quality Permitting Programs Follow-up Report

In June 2002, we released a report of the Department of Environmental Quality's air quality permitting programs. Our follow-up reviews in 2003 and 2004 found the department had fully or partially implemented seven of the nine report recommendations. This follow-up report addresses the department's efforts on the final two recommendations that pertain to the imbalance of program expenditures and revenues. We found the department has met our recommendations by monitoring the fiscal status of air permitting programs and taking steps to understand program needs.

Background

The department issues comprehensive operating permits for major sources of pollution, called Title V permits, and construction permits required for building or modifying facilities that discharge air pollution, called Permits to Construct. The Joint Legislative Oversight Committee directed us to conduct an evaluation in 2002 because of concerns about the department's timeliness in issuing permits and questions about revenues and expenditures.

The report's nine recommendations were aimed at improving management information, strengthening accounting practices, and ensuring that program expenditures and revenues are at appropriate levels. Our follow-up reviews in 2003 and 2004 found the department had fully or partially implemented seven recommendations.

Current Status

This report focuses on the remaining two recommendations directed to the department:

- Address the imbalance between Title V program revenues and expenditures; and consider alternative factors, in addition to emissions, as a basis for Title V fees
- Monitor fee collections and workload in the Permit to Construct program to determine if the fee schedule should be adjusted either up or down

The Department of Environmental Quality's self-assessment of its implementation efforts is provided in appendix A. Our assessment of the department's progress is provided below.

Title V Revenues and Expenditures

The federal Clean Air Act requires states to fully fund their Title V permitting program from fees charged to regulated facilities. Therefore, the department must receive enough in fees to pay for the program's required activities.

Over the past three fiscal years, the department's balance between Title V revenues and expenditures has varied. In fiscal years 2003 and 2005, the department spent more on the program than it received. Conversely, in fiscal year 2004, the department received more in revenues than it incurred in costs. In those years when

This report was completed at the request of the Joint Legislative Oversight Committee under the authority of Idaho Code § 67-457 through § 67-464. Questions about the report may be directed to the Office of Performance Evaluations through e-mail (opeinfo@ope.idaho.gov) or phone (208 334-3880).

expenditures exceeded revenues, the department has drawn from a surplus fund balance that was about \$1.5 million at the end of fiscal year 2005.

In our 2004 follow-up review, we reported department responsibilities were shifting from issuing initial Title V permits to (1) modifying and renewing permits, and (2) monitoring facility compliance with permit requirements. In light of these changes, we suggested the department more accurately estimate future program workload and resource needs before changing its fee structure.

The department has subsequently worked with the US Environmental Protection Agency to identify required program activities for compliance monitoring and permit renewal. It has also established a work plan for scheduling key program activities. Department officials report that program workload has stabilized, and they have a clear understanding of the level of fees needed to fund the Title V program. The department indicates program expenditures will continue to outpace revenue by about \$200,000 to \$300,000 per year and a fee increase will be necessary.

The department **has met the intent** of our recommendation through its efforts to monitor the program fund balance and better understand required program activities. We maintain, however, that any future proposed change to the fee level be supported by a documented analysis of work activities and program resource needs.

Permit to Construct Revenues and Expenditures

In 2003, the department began collecting application and processing fees to help support the Permit to Construct program. The purpose of the fees was to provide additional revenue so the department could reduce a backlog of permit applications and ensure timely issuance of permits.

At the time of our 2004 follow-up review, the department had eliminated the backlog of permit applications and was receiving considerably fewer applications than in prior years. Because the department had caught up with its backlog and was showing a reduced workload, we suggested it revisit the Permit to Construct fees to determine if a reduction was warranted.

Since that time, however, the department's Permit to Construct workload has increased and there is again a backlog. Based on information provided by the department, the number of permit applications increased from 70 in 2003 to 162 in 2005.¹ As of May 22, 2006, 49 Permit to Construct applications were backlogged.

Despite the increased workload and permit backlog, department officials report that fees received for construction permits are sufficient for the program. The department contends that the backlog of permits is due to a shortage of authorized positions in the air program. Instead of requesting additional staff, department officials have begun both short- and long-term efforts to reduce workload. In the short-term, the department has directed staff who typically work in other programs to address the backlog. The department's long-term solution is to develop general permits containing standardized requirements that can be applied to all applicants who operate specific types of facilities. In addition, the department is planning to hire a consultant to review its permit process and recommend changes to improve efficiency. In the interim, the department is tracking the workload and fiscal condition of the Permit to Construct program consistent with our recommendation. We conclude that the department **has fully implemented** our recommendation.

The department's self-assessment of its implementation efforts is provided in appendix A.

¹ Permit application numbers for 2003 are based on the calendar year, whereas the 2005 numbers are based on the fiscal year.

We appreciate the cooperation and assistance we received from the Department of Environmental Quality in conducting this follow-up review. Ned Parrish of the Office of Performance Evaluations conducted the review.

Joint Legislative Oversight Committee (JLOC)

Sen. Shawn Keough, Co-chair

Sen. John Andreason

Sen. Bert Marley

Sen. Kate Kelly

Rep. Margaret Henbest, Co-chair

Rep. Maxine Bell

Rep. Debbie Field

Rep. Donna Boe

Office of Performance Evaluations

Rakesh Mohan, Director

Appendix A

Department of Environmental Quality's Self-assessment of Implementation Efforts



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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Dirk Kempthorne, Governor
Toni Hardesty, Director

May 5, 2006

Rahesk Mohan, Director
Office of Performance Evaluations
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700 W. State Street
Boise, ID 83720-0055

Re: Response to Follow-Up Review: June 2002 Air Quality Permitting Program Review

Dear Mr. Mohan:

Thank you for your letter of April 19 requesting a status report on the following two recommendations identified in the Office of Performance Evaluation (OPE) June 2002 report:

Recommendation 3. The Department of Environmental Quality should address the current imbalance between Title V program revenues and expenditures, and consider alternative factors, in addition to emissions, as a basis for Title V fees.

Recommendation 9. The Department of Environmental Quality should monitor Permit to Construct fee collections and workload to determine if the fee schedule should be adjusted up or down.

Response: Since the OPE review began in June 2002, DEQ has taken the opportunity to review all facets of the Title V program including how revenues are generated and how monies are expended.

In 2003 DEQ initiated a negotiated rulemaking to take a long-term look at the fee structure and the per ton fees that were assessed. Following discussions with the regulated community, Air Quality Division management determined revisions to the Title V fee rules were not warranted at that time and that DEQ would continue to monitor account balances. Subsequent to the audit, more training was provided to inspectors and regional offices on duties required for Title V source inspections, full compliance evaluations (FCE) and partial compliance evaluations (PCE). Consequently, more work is being done in the Title V area as required by the Clean Air Act and the excess Title V account balance has begun a slow decline. Managers continue to watch charges made to base and Title V to ensure Title V expenses are appropriately coded.

Rahesk Mohan, Director
May 5, 2006
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Through recent months of watching the account balance, air program management has determined that the fund is not keeping pace with expenditures. A fee rulemaking may be needed to address this steady decline

President Bush's proposed federal government reductions to the EPA budget will in all likelihood affect Idaho's base grant funding. These reductions will require DEQ to look even more closely at expenditures from base to ensure that all justifiable costs have been moved to Title V.

One other aspect of the entire permit funding issue is the use of Permit to Construct (PTC) and Tier II application and/or processing fees. These fees supplement the federal base grant in processing PTCs and Tier II permits. When the fees were established in 2002, DEQ did not intend they would cover the entire cost of processing base-related permits. Currently these fees fund a very small percentage of the total cost. With the President's proposed decrease in federal base grant funding, PTC and Tier II fees will be even more critical to base permitting activities.

In summary, DEQ has continually tracked generation of fees and work load for all air programs. DEQ air management recognizes the imbalance of permit funding and expenditures and has made appropriate adjustments whenever possible to ensure the air program has adequate funding to provide essential services. In light of our tracking efforts and the proposed budget cuts, DEQ plans to approach program funding in two ways: (1) potentially schedule rulemaking to consider a fee adjustment for Title V facilities, and (2) consider initiating a PTC/Tier I fee rulemaking to supplement the federal base grant in the event federal funding reductions are approved.

I hope the above information is adequate to allow for the successful closure of the OPE Air Quality Permitting Review. If you or your staff have need for further information, please contact Martin Bauer, Administrator of the Air Quality Division, or me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Toni", followed by a horizontal flourish.

Toni Hardesty
Director

TH/ph

cc: Martin Bauer, Air Quality Division